

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of:

Review of the Emergency Alert System;
Independent Spanish Broadcasters
Association, the Office of Communication of
the United Church of Christ, Inc., and the
Minority Media and Telecommunications
Council, Petition for Immediate Relief

EB Docket No. 04-296

**COMMENTS OF THE CALIFORNIA PUBLIC UTILITIES
COMMISSION, THE CALIFORNIA OFFICE OF EMERGENCY
SERVICES, AND THE PEOPLE OF THE
STATE OF CALIFORNIA**

The California Public Utilities Commission, the California Office of Emergency Services (California OES or OES), and the People of the State of California (CPUC) (jointly, California) submit this joint filing in response to issuance by the Federal Communications Commission (FCC) of its Second Report and Order and Further Notice of Proposed Rulemaking (Second Report & Order), released July 12, 2007.¹ In the Second Report & Order, the FCC sought comment on the Emergency Alert System (EAS) and, in particular, to proposed revisions to

¹ The comment period was triggered by this item's publication in the Federal Register on November 2, 2007.

the FCC's Part 11 EAS Rules with the goal of making EAS more accessible, efficient, and effective.

I. INTRODUCTION

A healthy, reliable, redundant, and interoperable emergency communications system is critical for California citizens, state commerce, and public safety agencies to communicate during and in the aftermath of emergency and catastrophic events. This NPRM is an opportunity for California to comment on this matter in an effort to ensure the FCC, which establishes the rules for the national EAS, takes the necessary steps to enhance the system's reliability and effectiveness. As such, the CPUC and the California OES have cooperated on these comments to ensure the provision of safe, reliable EAS throughout California.

In summary, the CPUC and the California OES recommend that the FCC:

1. Take necessary measures to ensure that emergency notifications are accessible to persons with disabilities and non-English speakers at the same time that such information is available to others;
2. Require EAS participants to receive and transmit alerts initiated by local and state government entities per the state EAS plan, in addition to the state governor; and
3. Implement a program to audit and review all required EAS tests, to ensure that testing is completed and the system is working properly.

II. BACKGROUND

The Emergency Alert System is a means for communicating national, state, or local emergency warnings to the general public. An EAS warning may be issued to cover an area of only a few blocks or a much more widespread area – large parts of a city, sections of specified areas (such as a county or parts of adjoining counties), or a part or all of a region. Sometimes an EAS warning may cover several states or the entire nation.

The EAS provides a means of distributing emergency information quickly to radio stations, television stations, and cable entities, which, in turn, convey the warning(s) to the general public. EAS is made up of radio, television, and cable entities which cooperate on a voluntary organized basis for local and state warnings, but on a mandatory basis for Federal warnings.²

The EAS system has a national purpose, as well as both a state and local purpose. In the event of an emergency, a national alert flows to the National Primary Stations (stations designated as the primary entry point for national alerts), which then send the alert on to local stations. Distribution of the state and local warnings is provided in accordance with local area and state EAS plans. When a local government needs to warn its citizens, the local EAS system provides the technical capability to issue the warning.

² Broadcasters and cable operators have the option to participate in national-level EAS. All participating national broadcasters and cable operators are required to participate in all testing and must transmit mandatory national-level EAS. All non-participating national stations must transmit a sign off announcement and then go dark during a national-level EAS alert. All participating national broadcasters and cable operators must transmit a required weekly test and, once a month, must re-transmit the required coordinated monthly test.

OES is the lead agency for emergency management in the California state government. In California, the EAS is used to warn of an imminent danger, such as flooding from severe thunderstorms; to warn of events that are actually occurring in some area(s), such as tornadoes; to effect evacuations of areas prompted by an incident, such as a wildfire; or to notify the public of some other event requiring immediate action.

Participation in the state and/or local area EAS is voluntary for all broadcasters and cable operators. However, in California, broadcast and cable stations generally choose to participate because of public response. Although non-participating national broadcasters may elect not to carry national EAS warnings, they may participate on a voluntary basis in the state and/or local area EAS without any prior FCC approval.

III. FCC ACTIONS

In its Second Report and Order, the FCC set forth new requirements for EAS participants “as part of [its] continuing effort to provide the American public a state-of-the-art next generation national EAS.”³ The Order requires that EAS participants a) accept Common Alerting Protocol (CAP) messages, b) adopt Next Generation EAS delivery systems, c) transmit state-level and geo-targeted local EAS alerts received in CAP format and issued by state governors or their

³ Second Report & Order, ¶ 1.

designees, d) configure their systems to incorporate CAP security functions, and e) upgrade their station-relay networks to Next Generation EAS networks.

In addition, wireline video providers are now included as EAS participants while satellite television and radio service providers are exempted at this time from carrying state level EAS purportedly due to their facilities' technical limitations. Lastly, the FCC and the Federal Emergency Management Agency (FEMA) will coordinate on the resources and requirements to conduct EAS training programs to ensure that states and other interested parties can implement Next Generation EAS.

The FCC's decision to adopt CAP will substantially change the method used to transport emergency messages from their sources to broadcasters. CAP is a digitally-based system that enables government officials to not only transmit emergency messages in text, but to transmit voice messages, pictures, and other data. CAP is designed for digital delivery mechanisms such as data channels and computer networks, which means that, in addition to broadcast channels, other means of sending alerts -- such as through cellular phone messages, websites, and/or message boards -- can utilize CAP messages. Because CAP is required as an additional message delivery system, current EAS receivers will continue to receive traditional EAS messages.

The FCC also seeks input in its ongoing efforts to comprehensively address reliability, security, and efficiency of the nation's EAS network and its capacity to enable the president, the National Weather Service (NWS), and state officials to

rapidly communicate with citizens in times of crisis, over multiple communications platforms. Specifically, the FCC asks:

- How non-English speakers may best be served by national, state, and local EAS;
- The best way to make EAS and other emergency information accessible to persons with disabilities;
- Whether EAS Participants should be required to receive and transmit alerts by government entities other than a state governor; and
- Whether the FCC should require, additional EAS testing, station certification of compliance and assessment of EAS performance after an alert.⁴

IV. RECOMMENDATIONS

According to the Census Bureau's 2006 American Community Survey, 4.3 million or roughly 13 percent of California's population has one or more type(s) of disabilities, while 6.8 million – more than 20 percent – are categorized as having limited English proficiency. In recognition of these statistics, the fact that persons with disabilities use a wide variety of means to satisfy their communications needs, and the CPUC's ongoing commitment to furthering universal service, California considers it critical to ensure that emergency information is accessible in as many formats and over as many types of communication devices as possible.

California applauds the FCC's decision to require that EAS participants accept CAP-formatted alerts and warnings with respect to the improved accessibility it can provide to all persons.⁵ However, the FCC should take further

⁴ Id. ¶¶ 72-75.

⁵ Id. ¶ 37.

steps ensure that EAS and other emergency information is accessible to persons with disabilities and to non-English speaking persons. Accordingly, California offers the following recommendations for further FCC action:

- **Make EAS and other emergency information accessible to persons with disabilities on a redundant basis via the complete range of communication devices**

The CPUC has a long-established record of public programs designed to achieve universal service, including its Deaf and Disabled Telecommunications Program (DDTP), which addresses the telecommunications needs of persons with disabilities. The CPUC places particular importance on responding to the telecommunications needs of this population.⁶ Most recently, the CPUC launched a DDTP wireless equipment pilot program to offset the cost of wireless equipment for eligible DDTP participants.⁷

With respect to the specific issues on which the FCC seeks comment, feedback from the CPUC's Emergency Preparedness workshops provides valuable guidance and useful recommendations. California recognizes that persons with disabilities use a wide range of communication devices, including telephone, teletypewriters (TTY), fax, email, text messaging, and short message systems (SMS). Therefore, emergency information must be readily accessible through a wide array of devices, with sufficient redundancy so that individuals regardless of

⁶ See US Census Bureau, American Community Survey statistics on persons with disabilities (Table S1801. Disability Characteristics).
<http://factfinder.census.gov/servlet/STSelectServlet?_lang=en&_ts=207767338864> (accessed September 13, 2007).

⁷ CPUC, Resolution T-17089, May 3, 2007, at
http://www.cpuc.ca.gov/PUBLISHED/FINAL_RESOLUTION/67627.htm.

the technology on which they rely are able to receive emergency information. One option for achieving this goal is to secure contracts with local exchange carriers, Voice over Internet Protocol (VoIP) service providers, and wireless carriers to ensure that these companies use their databases for emergency alert purposes. Alternatively or in addition, individuals could register their contact information with a centralized database for the purpose of receiving emergency notifications; in this case, public outreach is critical for ensuring both awareness and responsiveness to this effort.⁸ Next Generation alerting systems, which will include all modes of communication, will help further the objective of making emergency information available to the diverse array of communications devices used by persons with disabilities.

- **Reach non-English speakers via multi-lingual EAS messages**

The CPUC strongly supports all efforts to ensure that critical public safety information is accessible to every individual.⁹ Through its public purpose (i.e., universal service) programs, the CPUC works to ensure that information about telecommunications services is readily accessible to limited English proficiency (LEP) customers through targeted marketing campaigns and other efforts.

Approximately 6.8 million, or roughly 20.1% of California's population, has

⁸ The CPUC is aware, via input from its own advisory committees, that some resistance exists in the deaf and disabled communities to the notion of having to "register" for particular purposes. The FCC would need to explore and respond to any community concerns in this regard.

⁹ See Second Report and Order, ¶ 38 ("Emergency information is defined as information about a current emergency that is intended to further the protection of life, health, safety, and property, i.e. critical details regarding the emergency and how to respond to the emergency."); 47 C.F.R. §§ 73.1250(a), 79.2(a)(2).

limited English proficiency (speaks English less than “very well”) and about 1.3 million – or 10.8% of – California households are linguistically isolated, according to recent Census data.¹⁰ Recently, the CPUC adopted a decision to improve LEP customers’ accessibility to information and assistance needed to obtain and maintain telecommunications services.¹¹

Every attempt should be made to reach significant populations of foreign language speaking audiences. The FCC notes that requiring EAS participants’ use of CAP “will facilitate more accurate and detailed multilingual alerts” and “EAS participants will simultaneously transmit multilingual CAP-formatted messages by EAS Participants as soon as such transmission is practicable.”¹² The CPUC and OES therefore support the FCC’s decision to require the use of CAP by EAS participants. The CPUC and OES also support the FCC’s further efforts to address the broader request made by the Independent Spanish Broadcasters Association to expand EAS to provide for multilingual EAS messages.¹³ This is an important first step towards developing a comprehensive plan for ensuring that non-English speakers receive adequate alert and post-alert emergency information and is

¹⁰ US Census Bureau, American Community Survey statistics on persons with disabilities (Table S1601. Language Spoken at Home and Table S1602 Linguistic Isolation). http://factfinder.census.gov/servlet/STSelectServlet?_lang=en&_ts=207767338864 (accessed September 13, 2007). A linguistically isolated household is one in which all adults had some limitation in communicating English.

¹¹ See CPUC, Decision 07-07-043, July 26, 2007 (addressing the needs of telecommunications consumers who have limited English proficiency), at http://www.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/70869.htm.

¹² Second Report and Order, ¶ 40.

¹³ *Id.* ¶ 35.

necessary for a more comprehensive solution for making general emergency and public safety information available to non-English speakers.¹⁴

- **Require EAS participants to receive and transmit alerts by government entities other than a state governor**

California supports the past and ongoing efforts of the FCC to improve EAS and create a state-of-the-art next generation system that can fulfill its national purpose as well as state and local purpose. Currently, the FCC enables state governors or their designees to initiate state-level alerts for mandatory transmission by EAS participants. At present the transmission of alerts by entities other than the state governor are voluntary. The CPUC and OES believe that, in the interest of public safety, the transmission of alerts by entities designated by the state governor and outlined in the state EAS plan should be made mandatory.¹⁵

California itself relies heavily on EAS. The state of California covers 156,297 square miles, stretching south from the Oregon/California border over 800 miles to the U.S./Mexico border. The state's extensive area, long ocean shoreline, climatic and topographic extremes, foothills, mountains, valleys, volcanoes, and geological faults afford a range of threats and hazards that could require geo-targeted or statewide mandatory EAS warnings.

The recent southern California firestorm provides an example of the need for geo-targeted and regional alerts as well as access to the national EAS system by local and state government entities. In this disaster, 23 fires spread over seven

¹⁴ *Id.* ¶¶ 41-42.

¹⁵ State of California FCC State EAS Plan, Authority to Activate EAS, approved March 01, 2004.

counties with a total population of approximately 21,000,000 and covering 41,000 square miles. The fires burned over 500,000 acres and destroyed over 3200 buildings. At one point during the course of the firestorm, evacuations peaked with over 320,000 people being required to leave their homes. EAS should be available to the local government in local situations like these as well as to the state governor for regional alerts.

- **Require auditing and assessment of EAS performance after an alert**

California believes that current EAS testing requirements are sufficient and occur often enough to assure testing is done on a consistent and ongoing basis. At present each local area must run a monthly test and broadcasters and cable operators must transmit a weekly test. Although current testing practices are adequate, a program or system should be implemented to evaluate EAS's performance. An increased emphasis on training by the FCC and FEMA, plus the FCC's after action review, will ensure that national the EAS will be effective for local, state and federal alerts.

V. CONCLUSION

The CPUC and the California OES strongly support the FCC's efforts to improve its EAS rules. To reach that goal, the CPUC and the California OES recommend that the FCC ensure that EAS information is accessible to persons with disabilities on a redundant basis via all available communication devices and to non-English speaking persons via multilingual messages; require EAS participants to receive and transmit alerts by government entities other than state

governors; and implement an audit program to evaluate current testing results on a consistent basis to confirm the EAS's performance.

Respectfully submitted,

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